

222249



IOWA
NATURAL HERITAGE
FOUNDATION

Insurance Exchange Building
Suite 444
505 Fifth Ave
Des Moines, Iowa 50309

Phone 515-288-1846
Fax 515-288-0137
e-mail info@nhf.org
www.nhf.org

May 1, 2008

Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D C 20423-0001

FILING FEE WAIVED

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Proposed Abandonment of a Western Portion of the Bristow Subdivision from M P. 318 66 near Hampton to M P. 326 50 near Coulter, a distance of 7 84 miles in Franklin County, Iowa

STB Docket No AB-33 (Sub-no. 201X)

**Motion to Extend the Time Period for Negotiation of an
Interim Trail Use/Railbanking Agreement**

On behalf of Franklin County, Butler County (public agencies) and the Iowa Trails Council, the Iowa Natural Heritage Foundation hereby moves the Surface Transportation Board (STB or Board) to extend the time period for negotiation of a mutually acceptable interim trail use/railbanking agreement in this proceeding up and including **July 30, 2008**

The Iowa Natural Heritage Foundation, Butler County, Franklin County and the Iowa Trails Council have been negotiating with the Union Pacific Railroad (UPRR), but the parties need additional time to complete the purchase. A preliminary purchase agreement has been proposed, but the documents have not been signed or finalized.

To successfully preserve this corridor for interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U S C 1247 (d), it is necessary for the negotiation period under the NITU to be extended 90 days up to and including **July 30, 2008**. See Policy Statement on Rails to Trails Conversions, Ex Parte No 274 (Sub. No


13b) (ICC served Feb. 5, 1990) (extensions of time promote the establishment of trails and railbanking consistent with the National Trails System Act).

Since the issuance of the NITU, UPRR at all points has maintained intent to transfer the line intact for interim trail use. The railroad has not sold, or offered for sale, any parcels of land that would interfere with interim trail use and railbanking of the portion of the corridor that is covered by the NITU. The line remains intact and throughout the period, the railroad has been negotiating with INHF for the transfer or sale of the corridor intact. Accordingly, the Board retains jurisdiction to extend the NITU to continue bona fide and active negotiations for interim trail use of the line.

In similar instances, this Board has reopened proceedings to permit the issuance of orders implementing section 8(d) for rail lines. The STB's authority to extend a NITU was upheld in Birt v. STB, 90 F.3d 580 (D.C. Cir. 1996). Here the parties merely seek and extension in the period for negotiation provided in a previously issued NITU. Such an extension will promote and further the purposes of the Trails Act.

For the reasons stated the Iowa Natural Heritage Foundation Dallas County Conservation Board request that an extension of the NITU negotiation period be granted through July 30, 2008.

Respectfully Submitted,



Mark C. Ackelson, President

cc Butler County Conservation Board
Franklin County Conservation Board
Iowa Trails Council




IOWA
NATURAL HERITAGE
FOUNDATION
"for those who follow"

Insurance Exchange Bldg	Phone 515-288-1846
Suite 444	Fax 515-288-0137
505 Fifth Avenue	e-mail info@inhf.org
Des Moines, IA 50309-2321	www.inhf.org

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2008, a true and accurate copy of the foregoing motion has been served to the following party via first-class mail, postage pre-paid and VIA FAX to 312-777-2065

Mack H Shumate, Jr
Union Pacific Railroad
101 N Wacker Dr Rm 1920
Chicago, IL 60606-1718



Mark C Ackelson, President